

# EXHIBIT 41

4/14/2005 Justo, Deborah

1 UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF NEW JERSEY  
3

4 RENEE MCCOY, individually and )  
5 on behalf of all others )  
6 similarly situated, )  
7 )  
8 Plaintiff, ) Civil Action No.  
9 ) 2:03-cv-1801(FSH)(PS)  
10 vs. )  
11 ) CONFIDENTIAL

12 HEALTH NET, INC., HEALTH NET )  
13 OF THE Northeast, INC., and )  
14 HEALTH NET OF NEW JERSEY, ) EXAMINATION  
15 INC.,) BEFORE TRIAL  
16 ) OF  
17 )  
18 Defendants. ) DEBORAH JUSTO

19 -----X  
20 ZEV AND LINDA WACHTEL, )  
21 individually and on behalf of )  
22 their children, TORY, JESSE )  
23 and BRETT WACHTEL, and on )  
24 behalf of all others similarly )  
25 situated, )

26 )  
27 Plaintiffs, )  
28 )  
29 vs. )  
30 )

31 GUARDIAN LIFE INSURANCE )  
32 COMPANY OF AMERICA, HEALTH NET, )  
33 INC., and HEALTH NET OF NEW )  
34 JERSEY, INC., )

35 )  
36 Defendants. )  
37 -----X

38 )  
39 REPORTING SERVICES ARRANGED THROUGH:  
40 VERITEXT/NEW JERSEY REPORTING COMPANY, L.L.C.  
41 Kabot Battaglia & Hammer - Suburban Shorthand  
42 Waga & Spinelli - Arthur J. Frannicola CSR  
43 25B Vreeland Road, Suite 301  
44 Florham Park, New Jersey 07932  
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4/13/2010 4:46 PM



Cooper AET 04053

4/14/2005 Justo, Deborah

1 not sending to Ingenix because of Aetna's profiling  
2 rules?

3 A. No.

4 Q. Okay. And I don't believe it was your  
5 testimony, but I just want to make sure I understood,  
6 that Ingenix has never asked Aetna to provide that  
7 information to Ingenix; correct?

8 A. I don't believe so.

9 Q. Okay.

10 MS. QUACKENBOS: Excuse me.

11 (A discussion is held off the record.)

12 Q. Ms. Justo, do you still have a copy of  
13 Plaintiffs' 1?

14 A. Yes.

15 Q. Could you please turn to the second page of  
16 that, which for the record is McCoy/Aetna-002.

17 Oh, by the way, just actually one question  
18 first about what we were covering before. And then  
19 we'll go on to this.

20 Did Ingenix ever audit Aetna's data  
21 contribution at any time from 1998 through December  
22 31st, 2004?

23 A. Not that I'm aware of.

24 Q. Okay. Looking at McCoy/Aetna-002, there's a  
25 heading "Per TOLR ACAS Automated Profiling

Cooper AET 04096

44

4/14/2005 Justo, Deborah

1 Guidelines." Do you see that?

2 A. Yes, I do.

3 Q. The first line reads, "Charges that exceed  
4 prevailing will be reduced and not profiled with  
5 Action Codes 617 or 657." Do you see that?

6 A. Yes, I do.

7 Q. Do you have an understanding as to how Aetna  
8 has applied that rule at any time between 1998 and  
9 December 31st, 2004?

10 A. I believe that to just be a terminology error  
11 in a manual. That is not what is happening in the  
12 system.

13 Q. And have you looked -- What is the basis for  
14 your understanding that that is a terminology error,  
15 as you put it?

16 A. We check. I checked with someone involved  
17 with the systems and they looked at claim activity and  
18 told me that that is not what is happening.

19 Q. And who is the person that you say you  
20 checked with?

21 A. Her name is Anna Chavez. C-h-a-v-e-z.

22 Q. What is it that made you go check with Anna  
23 Chavez about the automated profiling guidelines  
24 appearing on McCoy/Aetna-002?

25 A. That it's not been our practice to not

Cooper AET 04097

4/14/2005 Justo, Deborah

1 profile charges that exceed prevailing. And so I was  
2 concerned. I wanted to make sure that that wasn't  
3 what was happening in the system.

4 Q. What was your understanding of Aetna's  
5 practice based on?

6 MS. O'REILLY: Objection to the form.

7 A. We would not want to do that. That --

8 Q. Okay. I don't think you are understanding my  
9 question. If I understood your testimony correctly,  
10 you are saying that something caused you to look at  
11 this rule and say to yourself, "Oh, I don't think  
12 that's exactly how we are applying it. Let me go back  
13 to Anna Chavez about that."

14 A. Yes.

15 Q. Okay. First of all, when did you say to  
16 yourself, "I don't think this rule accurately reflects  
17 what Aetna is actually doing"?

18 A. I saw it in preparation for this, when we  
19 were collecting documents.

20 Q. And when, when if you can supply a date, when  
21 did that occur?

22 MS. O'REILLY: Objection to the form.

23 A. I don't recall the date.

24 Q. Within the last two weeks?

25 MS. O'REILLY: The date of the collection of

Cooper AET 04098

46